

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

SMARTMATIC USA CORP., et al.,)	CASE NO. 22-CV-00098-WMW-JFD
)	
Petitioners,)	
)	DECLARATION OF JAMIE N. WARD IN
vs.)	SUPPORT OF SMARTMATIC’S
)	OPPOSITION TO DEFENDANTS’
MICHAEL J. LINDELL and MYPILLOW,)	THIRD MOTION TO COMPEL AND
INC.,)	MOTION TO MODIFY SCHEDULING
)	ORDER
Respondent.		

I, Jamie N. Ward, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am over the age of 18, I am competent to make this declaration, and I have personal knowledge of the facts stated herein. These facts are true to the best of my knowledge, information, and belief, and if called upon to testify as a witness, I could and would testify competently to them.

2. I am an attorney at the law firm Benesch, Friedlander, Coplan & Aronoff, LLP, and I represent Petitioners Smartmatic USA Corp., Smartmatic International Holding B.V., and SGO Corporation Limited (“Smartmatic”) in the above-captioned dispute.

3. Smartmatic has taken fifteen depositions in this case to date, including preparing for, traveling to, and taking the “empty chair” deposition for three individuals who failed to appear at their scheduled depositions: Joshua Merritt, Mary Fanning, and Conan Hayes. Defendants have taken seven depositions.

4. Attached as Exhibit A is a true and correct copy of a letter from Julie Loftus to Matthew Eslick, dated January 20, 2023.

5. Attached as Exhibit B is a true and correct copy of a letter from Michael Bloom to Matthew Eslick, dated May 5, 2023.

6. Attached as Exhibit C is a true and correct copy of Defendants' third-party deposition subpoenas—all noticed in September 2023—of Shiva Ayyadurai (October 6); Harri Hursti (October 9); CISA (October 13); Andrew Appel (October 16); Thomas McInerney (October 16); and Alan Duke (October 18).

7. Attached as Exhibit D is a true and correct copy of email correspondence between Jamie Ward and Defendants counsel from August 7, 2023 through October 2, 2023.

8. Smartmatic is a global company, and many of the individuals noticed for depositions have had to travel internationally.

9. Attached as Exhibit E is a true and correct copy of an excerpt of a PDF version of DEF11325172. DEF11325172 is an excel document produced by Defendants in this matter. When converted to a PDF, the document is 1,380 pages. This three-page excerpt highlights the “warroom” code discussed in the Opposition Motion.

10. Attached as Exhibit F is a true and correct copy of an excerpt of the deposition of Dawn Curtis, taken on September 12, 2023 by Plaintiffs' attorney Nicole Wrigley.

11. Attached as Exhibit G is a true and correct copy of Defendants' Supplemental Interrogatory Responses served September 1, 2023.

12. Attached as Exhibit H is a true and correct copy of a letter sent from Julie Loftus to Amanda Oliver on September 12, 2023.

13. Attached as Exhibit I is a true and correct copy of a letter sent from Michael Bloom to Andrew Parker on August 15, 2023.

14. Attached as Exhibit J is a true and correct copy of an email from Nathaniel Greene to Jamie Ward, dated October 3, 2023.

15. Attached as Exhibit K is a true and correct copy of a letter from Michael Bloom to Matthew Eslick, dated March 20, 2023.

16. Attached as Exhibit L is a true and correct copy of certain search terms used to identify potentially responsive documents documents in the case captioned *Smartmatic USA Corp., et al. v. Fox Corp., et al.*, Index No. 151136/2021 (Sup. Ct. New York).

17. After producing Appendix A to Smartmatic's Interrogatory No. 20, in an effort to assist Defendants, Smartmatic identified for Defendants certain forecasted opportunities for which Smartmatic would not seek damages. Smartmatic then identified a corporate representative to provide Rule 30(b)(6) deposition testimony for remaining opportunities. Finally, Smartmatic has provided to Defendants an annotated version of Appendix A, prepared by Smartmatic's corporate representatives for the purpose of allowing the representatives to testify fulsomely at deposition. This annotated version of Appendix A includes additional details regarding the remaining forecasted opportunities.

18. To date, Smartmatic has produced over 1.1 million documents to Defendants, including: (1) the company's audited financial statements and detailed financial reports, (2) Smartmatic's historic contracts with its customers, and bids, RFI and RFP responses, (3) its prior company valuations, (4) its customer relationship data from contracts and business opportunities in connection with its automated election technology business from January 1, 2017 to present (including for each opportunity information related to the product at issue, estimated profit margin, commercial strategy and assessment, and customer contacts), (5) more than 80,000 documents from the custodial files of Smartmatic's President and CEO, (6) approximately

40,000 documents from the custodial file of Smartmatic's Head of Sales, and (7) more than 185,000 documents from the custodial files of Smartmatic's sales personnel.

19. On September 27 and 28, 2023, Defendants deposed Antonio Mugica, CEO of Smartmatic. The first day of the deposition began at 10:11 am and concluded at 6:00 pm. The second day of the deposition began at 9:11 am and concluded at 4:31 pm.

20. Defendants first contacted Plaintiffs regarding Smartmatic's withholding of documents pursuant to Smartmatic's confidentiality obligations under Smartmatic's contract with Los Angeles County in late July 2023.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/s/ Jamie N. Ward

Executed on October 4, 2023

Jamie N. Ward